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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of		
Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them	)	PR Docket No. 92-235
and	)	
Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services	)	

COMMENTS OF UTC
ON
PETITIONS FOR RECONSIDERATION

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SUMMARY

The definition of a trunking system should be clarified so that the licensing status of "decentralized" trunking systems is clearly understood, and so that such systems do not have the potential to cause interference to co-channel systems. Procedures should be adopted to allow a temporary licensing freeze for current licensees attempting to secure concurrences for the use of trunking. The standards for licensing trunked systems must protect other operations.

There is no need for the FCC to micromanage the coordination process in a competitive environment. Certification of additional coordinators would likely lead to net detriments to the industry without corresponding public benefits.

The safe harbor tables of permissible power/height combinations should be replaced with a requirement to calculate signal coverage contours.

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Pursuant to Section 1.429 of the FCC's Rules, UTC hereby submits its comments on several of the Petitions for Reconsideration that have been filed with respect to the Second Report and Order, FCC 97-61, released March 12, 1997, in the above-captioned proceeding.[1] UTC has been an active participant in all phases of this rulemaking to "refarm" the private land mobile radio spectrum below 512 MHz and is pleased to have this opportunity to comment on requests for further modification or clarification of these new rules.

[1] The petitions were subject to public notice at 62 Fed. Reg. 30586-87 (June 4, 1997).

I. The FCC Should Clarify the Rules for Implementation of Trunking Below 512 MHz

A. Decentralized Trunking

In its own Petition for Clarification, UTC noted ambiguities in new Section 90.187(b)(2) relating to the authorization of trunking systems below 512 MHz. Specifically, UTC suggested that the area in which the FCC is requiring a trunking applicant to secure co-channel concurrence exceeds that which is necessary, based on comparable rules for the 800 MHz band. UTC also noted that it is unclear whether a trunked licensee is entitled to protection from future applicants over this same geographic area, and whether a trunked licensee will be protected from future adjacent channel operations.

A number of parties have raised similar questions on the issue of trunking. As noted in earlier comments in this docket, UTC supports the adoption of rules that will permit use of this spectrum-efficient technology, but agrees with other petitioners that the rules must be clarified to facilitate the authorization of this technology while protecting incumbent operations.

Fundamentally, the rules on trunking must incorporate safeguards to ensure that licensees of other systems are adequately protected from interference due to the operation of a trunked system. By its nature, a trunked system provides for automatic channel selection without the channel monitoring normally used in a shared-frequency environment and as contemplated by Section 90.403(e). Exclusive channel assignments provide the best opportunity for trunking because the system can make dynamic channel

assignments without regard to other co-channel licensees. The Personal Communications Industry Association (PCIA) notes the disturbing fact that a large number of trunking systems are already operating in the refarming bands, even though there are no rules expressly permitting such operation.[2] PCIA and others have therefore requested clarification that such systems may be installed without concurrence of co-channel licensees.[3]

UTC agrees that there must be further clarification of the regulatory distinction between "centralized" trunking systems for which concurrence of other licensees must be obtained, and "decentralized" trunking for which no concurrence is required. UTC further agrees with PCIA that heretofore, "decentralized" trunking was understood to mean systems in which the mobile units monitor a series of channels and dynamically assign an open channel. However, the systems described in the petitions of PCIA, Kenwood and Small Business in Telecommunications (SBT) appear to involve assignment of channels based on automatic monitoring at the repeater.[4]

UTC is concerned that "trunking" systems that employ automatic means of monitoring a channel only at the repeater location will not be able to effectively prevent interference to other users. Monitoring of the repeater transmit frequencies will not provide any information to the "trunked" system as to use of the mobile frequencies, and indeed, most private land mobile systems are coordinated on the basis of providing sufficient geographic separation between co-channel base stations so that one would not

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[2] PCIA, p. 4.
[3] American Mobile Telecommunications Association (AMTA), pp. 4-5.
[4] PCIA, p. 4; Kenwood, p. 3; SBT, pp. 20-21.

normally expect to hear the transmissions of one repeater at the site of a co-channel repeater. The monitoring requirement of Section 90.403(e) is most important in connection with mobile usage.

UTC therefore disagrees with the recommendations of Kenwood, SBT and AMTA that the FCC permit "decentralized" trunking without co-channel concurrence so long as there is some form of monitoring capability. UTC urges the FCC to clarify the definition of decentralized trunking along the lines suggested by PCIA so that co-channel users can be assured that any automatic monitoring performed by the system will provide the same effective level of protection as manual monitoring. The FCC should also clarify that the use of decentralized trunking does not, of itself, provide the trunked system licensee with any protection from future licensing of co-channel operations, as in the case of a centralized trunking system authorized on the basis of co-channel concurrence.

B. Licensing Procedures for Trunked Systems Should Be Revised

UTC agrees with the petitioners who recommend establishment of a period during which a trunked system applicant may attempt to secure concurrence from other potentially affected licensees without risk of additional licensing on the target channels.[5] A 90-day period should be sufficient time for a sincere trunking applicant to solicit and secure concurrences. UTC agrees with Industrial Telecommunications Association (ITA) that the 90-day period should not be extended or renewed, and such protection

[5] ITA, p. 8; AMTA, p 8-9; PCIA, pp. 13-14.

should only be afforded to licensees of existing permanent stations.[6] UTC shares PCIA's concern that an insincere applicant could create a "rolling freeze" by substituting another entity as the applicant each time the window on a previous freeze is about to close. However, UTC does not support ITA's recommendation to allow each coordinator to make the decision as to whether an applicant has justified the need for another 90-day notice period. Standards for reserving frequencies should be based on more than just a coordinator's personal assessment that an applicant has justified a need to lock-down a frequency for an additional period of time.

AMTA and Kenwood recommend that an applicant should be permitted to request protection for up to 20 channels at a time.[7] This proposal could have a severely detrimental effect on the future licensing and use of these bands if such blanket licensing freezes could be obtained by applicants for new facilities. If entities proposing new stations are afforded the right to "freeze" further licensing on up to 20 frequencies at a time, the result could be a licensing stalemate.[8] At a minimum, the request to freeze licensing on a group of channels should be limited to channels that otherwise can be coordinated for use at the proposed site. As noted above, UTC would recommend that the potential to freeze licensing should be restricted to currently licensed stations to avoid a "land-rush" mentality by speculators that so often pervades the opening of spectrum to new licensing opportunities.

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[6] ITA, p. 9.

[7] AMTA, pp. 8-9; Kenwood, pp. 9-10.

[8] This effect would be similar to that which was caused by Viking Dispatch when it requested scores of 900 MHz channels at nearly 100 cities across the country to create an erstwhile private carrier network on Business and Industrial/Land Transportation channels. Because of its commercial spectrum grab, these channels have been unavailable for use in private, internal radio systems.

The framework for refarming was largely built on the idea that existing licensees, using wideband technologies, would be given opportunities and incentives to deploy more efficient technologies, thereby potentially freeing up additional spectrum for new users. If new applicants are able to lock-up blocks of up to 20 channels at a time for periods of 90 days or more, and are then able to retain up to 10 of these channels, existing users could be severely hampered in their ability to improve their systems. UTC therefore recommends that the ability to freeze licensing should be limited to existing systems, and that the FCC should enforce its policies on the number of frequencies assignable to each applicant.[9]

Ericsson and Kenwood have recommended that applicants for trunking authorizations secure concurrence from some number of co-channel licensees less than all potentially affected licensees.[10] Ericsson recommends that a trunking applicant secure concurrence from licensees constituting a simple majority of the authorized co-channel and adjacent channel subscriber units. UTC disagrees with this approach. The purpose of the concurrence requirement is to ensure that potentially affected licensees are protected from interference due to the operation of the trunking system. Each licensee of a private land mobile radio system is entitled to the same expectations regarding interference protection as any other similarly situated licensee. Allowing a group of licensees to be subjected to potential interference from a trunked system merely because another group of licensees concurs with the trunked applicant's proposal

[9] See, *e.g.*, new Section 90.35(d).
[10] Ericsson, p. 2; Kenwood, pp. 6-8.

relegates these non-concurring licensees to *de facto* secondary status. In addition, because the FCC no longer requires each licensee to update the number of mobile units assigned to its system, there is no practical way to implement Ericsson's suggestion.

Kenwood has suggested that a trunking applicant should be permitted to monitor a channel in lieu of securing concurrence from the licensee.[11] UTC does not support the use of monitoring data as an alternative to coordination, and would therefore oppose a monitoring alternative in the context of trunking applications. Monitoring for purposes of licensing carries significant risks, due to the fact that some channels might be used more heavily during certain times of the year, or during certain contingencies (*e.g.*, storms, flooding, or other natural disasters), than at other times. Monitoring might be useful in the limited situation described by Kenwood; *i.e.*, as part of a showing that a particular licensee cannot be located or is no longer in business, and is therefore no longer using the channel.

For similar reasons UTC does not support SBT's alternative of authorizing trunking, without concurrence, on a two-year "developmental" basis.[12] As stated before, the paramount consideration should continue to be the protection of existing operations as new systems come on line. Practically speaking, authorization of such systems shifts the burden to the primary licensee to identify the source of interference, negotiate with the developmental licensee over its use of the spectrum, and, if necessary, initiate action with the FCC. Sound spectrum management calls for up-front

[11] Kenwood, pp. 8-9.
[12] SBT, p. 20.

coordination and co-channel concurrence. When coordinating an application proposing close geographic spacing with other co-channel systems, UTC will frequently recommend that the applicant secure a sharing agreement with nearby co-channel users. This approach works well in promoting cooperative use of shared spectrum and minimizes post-licensing conflicts and complaints. Authorization of trunking systems should be based on this proven method of managing this shared resource.

A number of parties, including UTC, questioned the rules defining the area within which a trunking applicant must secure concurrence.[13] UTC agrees that consideration of signal contours would be preferable to arbitrary mileage separations in defining the areas in which concurrence must be obtained.

II. Coordination Requirements

SBT has raised a number of complaints regarding the frequency coordination process, many of which have been raised in other contexts by counsel for SBT. It is pointless to engage in yet more debate over the long-settled, and highly effective, role of private frequency coordinators. SBT makes these recommendations on what it characterizes as the "combative arrangement" between coordinators and applicants.[14] Suffice it to say, the FCC has adopted rules to permit competition in frequency coordination. To the extent SBT, its members, or counsel believe they are in a "combative" relationship with one or more coordinators, they will soon have the option

[13] ITA, pp. 7-8; AMTA, pp. 10-11; Kenwood, pp. 10-11.
[14] SBT, p. 5.

of using another coordinator.[15] It is therefore unnecessary for the FCC to micromanage coordinators on matters such as how they relate to their customers and how fees are established.[16]

SBT recommends that anyone should be certified as a frequency coordinator if it certifies that it has an ability to perform coordinations, expresses an intent to comply with the FCC's rules on coordination, has the capacity to recommend the most appropriate frequency, and the ability to notify other coordinators of its actions. SBT has not demonstrated that the coordination and licensing process would be improved if additional coordinators are certified or that applicants' and licensees' interests would be enhanced by expanding the number of coordinators. The administrative and logistical issues involved in coordinating frequencies in the combined private land mobile bands are not as trivial as SBT seems to believe. Because of the density of usage in the PLMR bands, the many types of systems authorized in the band, the shared nature of the frequencies, and the high volume of licensing activity in these bands, the casual certification of additional coordinators would further complicate this process to the detriment of applicants, existing licensees, and the FCC. UTC does agree, however,

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[15] SBT hinges its arguments on the authority granted to coordinators to request additional information from applicants. Such authority is necessary to minimize the burden on the FCC staff in reviewing incomplete or improper applications and technical showings. If an applicant believes that a coordinator is unreasonably requesting additional information, it has the right to use another coordinator or to appeal the coordinator's decision to the Commission. Coordinators are also subject to general oversight by virtue of the coordinator certification process, so there should be no legitimate concern that the authority to request additional information will be used to harass, intimidate or otherwise create a "combative" relationship between applicants and coordinators.

[16] UTC finds no merit to SBT's suggestion that UTC's fees should be subject to special regulation because certain quasi-public safety frequencies must be coordinated by UTC. In a competitive marketplace, neither UTC nor any other coordinator will remain viable if its fees are excessive when compared to the fees of all other coordinators in the pool.

that the FCC should make clear that it will resolve application or post-licensing conflicts that are brought to its attention by the parties or the coordinator(s).

ITA has requested clarification as to whether, if it concludes that a Power, Petroleum or Railroad frequency, is the most appropriate frequency for its applicant, it may simply refer the application to UTC, PFCC or AAR, respectively, rather than returning the application to the applicant for refiling with the other coordinator.[17] UTC has no objection to this approach, and would treat such applications as it currently does under Section 90.176 on interservice coordination.

UTC agrees with AAA's request for clarification that a coordinator for one of the quasi-public safety frequencies, such as Power, Petroleum, or Railroad, may deny a request for frequencies if the coordinator believes the request would jeopardize existing uses of the frequencies.[18] Coordinators of these frequencies must have latitude, beyond the rote application of standards that may be used by other coordinators on other channels, to ensure that the critical operations conducted on these channels are not disrupted by new users.

III. Safe Harbor Tables

A number of parties have requested reconsideration of the "safe harbor" tables of power/height combinations. Although the tables were developed by the private land mobile community as a convenient method of assessing whether an applicant was

[17] ITA, pp. 4-5.
[18] AAA, pp. 17-18.

proposing more power than necessary to cover its intended area of operation, a number of parties believe that the tables are too restrictive, particularly in mountainous areas.

UTC agrees that it would be preferable to use projected signal contours as a means of determining whether the applicant has designed its system to meet its coverage requirements. UTC therefore supports use of coverage contours in coordination and licensing instead of blind reliance on the safe harbor tables.

WHEREFORE, THE PREMISES CONSIDERED, UTC respectfully requests the FCC to action on the above-referenced petitions in accordance with the views expressed herein.

Respectfully submitted,

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